

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DOROTHY GUILLORY and FELISE
GUILLORY,

Plaintiffs,

v.

WFS FINANCIAL, INC., WESTERN
FINANCIAL BANK, NELSON &
KENNARD, and ACTION AUTO
RECOVERY,

Defendants.

No. C 06-06963 JSW

**ORDER REGARDING
PLAINTIFFS' REQUEST TO
CLARIFY ORDER AND
GRANTING LEAVE TO AMEND**

The Court has received Plaintiffs' request to clarify its order dated March 21, 2007. The Court's order granted Plaintiffs leave to amend the complaint to include a claim under California Civil Code § 2981. Plaintiffs now seek to amend the complaint pursuant to Federal Rule of Civil Procedure 15 to include a claim against Defendant Nelson & Kennard under the Fair Debt Collection Practices Act ("FDCPA").

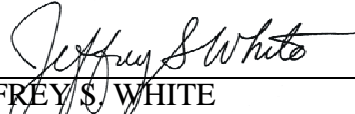
Federal Rule of Civil Procedure 15(a) permits a party to amend its pleading once as a matter of right at any time before a responsive pleading is served. Once a responsive pleading has been served, however, amendment requires written consent of the adverse party or leave of the court. In accordance with the Federal Rule's liberal pleading standard, leave of the court "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). Although the decision to grant or deny a motion for leave to amend is within the district court's discretion, the general rule is that amendment of the pleadings is permitted unless the opposing party makes a showing

1 of bad faith, undue delay, prejudice to the opposing side, or futility of amendment. *Forman v.*
2 *Davis*, 371 U.S. 178, 230 (1962); *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir.
3 1986).

4 The FDCPA “applies to attorneys who ‘regularly’ engage in consumer-debt-collection
5 activity.” *Heintz v. Jenkins*, 514 U.S. 291, 299 (1995). Here, Plaintiffs allege that Nelson &
6 Kennard are a law firm in the business of regularly collecting consumer debts. (Opp. Br. to
7 Nelson & Kennard Motion to Dismiss at 4.) Therefore, the Court finds that Plaintiffs have
8 satisfied the liberal standard of Rule 15(a). Plaintiffs may file an amended complaint to add a
9 claim against Nelson & Kennard for violation of the FDCPA. Plaintiffs shall file their Second
10 Amended Complaint within five days of the date of this Order. Defendants shall file responsive
11 pleadings within twenty days after service of the Second Amended Complaint.

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13 **IT IS SO ORDERED.**

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15 Dated: April 4, 2007

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18 JEFFREY S. WHITE
19 UNITED STATES DISTRICT JUDGE
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